



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Stuart Fleming, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Ruben Sands, Ward 5
Michelle Cooper Kelly, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, August 10, 2016

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Stuart Fleming, Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Ruben Sands, Michelle Cooper Kelly and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:05 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the Pledge of Allegiance.

PRESENTATIONS:

20160824

Marietta High School Football Team

Marietta celebrates the opening of Marietta City Schools, the introduction of the 2016 Seniors of the Marietta Blue Devils football team and Coach Richard Morgan Jr and his coaching staff.

Presented

20160835**Dr. Curtis McClung/Motorola Award of Excellence**

Recognition of Four Officers from the Marietta Police Department for the CRASE (Civilian Response to Active Shooter Events) seminars that they had been presenting for the citizens of Marietta. They won during a special Awards Banquet at the GACP (Georgia Association of Chiefs of Police) Summer Conference in Savannah, Georgia on July 25th.

Presented

PROCLAMATIONS:**20160790****Marietta Art in the Park**

Recognition of Marietta Art in the Park celebrating 30 years on the square September 3-5, 2016.

Presented

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY
THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20160809****Scheduled Appearance - Larry Wills**

Larry Wills, who lives on Oakmont Drive, spoke regarding redevelopment on Franklin Gateway.

Present

CONSENT AGENDA: Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Pro tem Johnny Walker briefly explained the consent agenda process. City Attorney Douglas Haynie noted the following changes to the consent agenda:

A motion was made by Council member Goldstein, seconded by Council member Kelly, to add an item to the consent agenda to approve contract related to the Georgia's Tax Refund Intercept Program Participation. The motion carried by the following vote:

*Vote: 7 – 0 – 0 Approved
(See agenda item 20160850)*

-under Ordinances: Agenda item 20160670 was removed from the consent agenda.

-under Ordinances: Agenda item 20160385 was added to the consent agenda and amended to approve the rezoning request from OIT (Office Institution Transitional) to R 4, Single Family Residential (4 units/acre).

-under Judicial/Legislative: Agenda item 20160743 remained on the consent agenda and amended to read, "Motion to approve the detailed plan for 1725 White Circle. The 9.65 acre proposed Single Family Homes community was rezoned to PRD-SF with stipulations in September 2014.

The following stipulations are incorporated as conditions of approval:

- 1. Per the plan submitted dated August 10, 2016.*
- 2. The applicant shall miter the corner of Heritage Ridge Drive and White Circle.*
- 3. The applicant shall provide a three year bond for the storm sewer system, the bond shall cover repairs to the storm sewer system and the streets and any other damage as a result of the storm sewer system failure.*
- 4. The applicant shall have an engineer inspect the storm using a video camera now and again three months prior to the expiration of the bond. Both reports shall be provided to the Public Works Director.*
- 5. The streets and infrastructure within the right-of-way within the development shall be public not private.*

-under Other Business: Agenda item 20160800 remains on the consent agenda showing Council members Chalfant and Walker opposed and Council member Sands abstaining.

-under Other Business: Agenda item 20160808 was added to the consent agenda.

Mr. Haynie opened the public hearing for those items on the consent agenda requiring a public hearing.

Shirley Hammond, who lives on James Street, spoke in opposition of agenda item 20160670, Special Land Use Permit for Republic Services.

Council member Goldstein requested that agenda item 20160670 be removed from the consent agenda since there was opposition to the matter.

Larry Wills, who lives on Oakmont Drive, spoke in opposition of agenda item 20160800, Charter Amendment regarding salary increases for Mayor and Council.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Kelly, seconded by Council member Fleming, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

ORDINANCES:

Approved with the exception of the following:

Council member Goldstein abstaining on agenda item 20160640 and opposed to agenda item 20160743

Council member Fleming abstaining on agenda item 20160640

Council member Chalfant abstaining on agenda item 20160758 and opposed to agenda item 20160800

Council member Walker opposed to agenda item 20160800

Council member Sands abstaining on agenda item 20160800

Council member Walker opposed to agenda item 20160800

Council member Sands abstaining on agenda item 20160800

MINUTES:

*** 20160793 Regular Meeting - July 13, 2016**

Review and approval of the July 13, 2016 regular meeting minutes.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20160794 Special Meeting - July 27, 2016**

Review and approval of the July 27, 2016 special meeting minutes.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20160810 Executive Session Minutes**

Review and approval of the following executive session minutes:

May 13, 2015 Agenda Review Session

May 13, 2015 City Council Meeting

May 27, 2015 Special Called Agenda Work Session

June 8, 2015 Agenda Work Session

June 10, 2015 Agenda Review Session

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

MAYOR'S APPOINTMENTS: (for informational purposes only)

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

20160670

Z2016-21 [SPECIAL LAND USE PERMIT] REPUBLIC SERVICES (CIVIL & ENVIRONMENTAL CONSULTANTS)

Z2016-21 [SPECIAL LAND USE PERMIT] REPUBLIC SERVICES (CIVIL & ENVIRONMENTAL CONSULTANTS) for property in the corporate limits of the City of Marietta, Georgia in Land Lot 1005, District 16, Parcel 0220, 2nd Section, Marietta, Cobb County, Georgia, and being known 325 Marble Mill Road, only to alter the configuration of the parking lots, as shown on the attached site plan, for the existing waste transfer facility.

City Attorney Doug Haynie opened the public hearing and explained the rules of order. Mr. Haynie then swore in those wishing to speak.

Brian Binzer, Development Services Director, presented information regarding the request for a special land use permit for property located at 325 Marble Mill Road. Mr. Binzer also summarized the criteria used to determine whether or not the permit should be granted.

Bret McClelen and Brian Diggs, Environmental Consultants for Republic Services, requested a Special Land Use Permit for a trash disposal facility located at property known as 325 Marble Mill Road. Mr. Diggs stated that all construction work would be done inside the existing building, reconfiguring the inside to add more office cubes and create a more efficient layout. He also explained that seven additional parking spaces would be created around the building.

Shirley Hammond, who lives on James Street, expressed concern regarding the proposed construction on the property. Mrs. Hammond asked for further details regarding the proposed project. Mr. Diggs outlined the specifics of the project using the site plan submitted. After the presentation by the applicant, Mrs. Hammond stated that she was opposed to the proposed project.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Morris, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:

Vote: 7 – 0 – 0**Approved**

*

20160676

Z2016-23 [REZONING] F & L INVESTMENTS, L.P.

Z2016-23 [REZONING] F & L INVESTMENTS, L.P. is requesting the rezoning of 5.674 acres located in Land Lots 728, District 17, Parcel 0050, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2253 Northwest Parkway from LI (Cobb County) to LI (City). Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20160677**

A2016-03 [ANNEXATION] F & L INVESTMENTS, L.P.

A2016-03 [ANNEXATION] F & L INVESTMENTS, L.P. is requesting the annexation of property located in Land Lot 728, District 17, Parcel 0050 (also known as 2253 Northwest Parkway), of the 2nd Section, Cobb County, Georgia consisting of 5.674 acres. Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20160681**

CA2016-06 [CODE AMENDMENT]

CA2016-06 [CODE AMENDMENT] In conjunction with the requested annexation of property located in Land Lot 728, District 17, Parcel 0050, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2253 Northwest Parkway, the City of Marietta proposes to designate the Future Land Use of said property as IW (Industrial Warehousing). Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20160678**

Z2016-24 [REZONING] WADE HOLDINGS, LLC

Z2016-24 [REZONING] WADE HOLDINGS, LLC is requesting the rezoning of 3.75 acres located in Land Lot 728, District 17, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2255 Northwest Parkway from LI (Cobb County) to LI (City). Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20160679**

A2016-04 [ANNEXATION] WADE HOLDINGS, LLC

A2016-04 [ANNEXATION] WADE HOLDINGS, LLC is requesting the annexation of property located in Land Lot 728, District 17, Parcel 0040 (also known as 2255 Northwest Parkway), of the 2nd Section, Cobb County, Georgia consisting of 3.75 acres. Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20160680**

CA2016-07 [CODE AMENDMENT]

CA2016-07 [CODE AMENDMENT] In conjunction with the requested annexation of property located in Land Lot 728, District 17, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2255 Northwest Parkway, the City of Marietta proposes to designate the Future Land Use of said property as IW (Industrial Warehousing). Ward 7A.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with have been represented by Kevin Moore and/or his firm.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* **20160799 Denial of Claim**

Denial of the claim Jamie Yerber-Burris, Shaun Satterwhite and Kajuan Yerger.

This matter was Approved to Deny on the Consent Agenda.

Vote: 7 – 0 – 0 Approved to Deny

* **20160837 Denial of Claim**

Denial of the claim for Robert Stanley and Barbara Stanley.

This matter was Approved to Deny on the Consent Agenda.

Vote: 7 – 0 – 0 Approved to Deny

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: G. A. (Andy) Morris, Chairperson

* **20160737 Recommended FFY2017 CDBG Projects**

Approval of a Resolution authorizing the submittal of the City's FFY2017 Recommended Community Development Block Grant (CDBG) projects to Cobb County CDBG for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD).

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

2. Finance/Investment: Stuart Fleming, Chairperson

* **20160731 Donation to the Tree Preservation Fund by PRO Building Systems (Ed Voyles Honda)**

Ordinance approving an amendment to the Fiscal Year 2017 Tree Preservation Fund budget to receive and appropriate a donation from PRO Building Systems, Inc. (Ed Voyles Honda).

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20160742** **Donation to the Tree Preservation Fund by Craftsmen Business Interiors, Inc. (Christ the Redeemer Church)**

Ordinance approving an amendment to the Fiscal Year 2017 Tree Preservation Fund budget to receive and appropriate a donation from Craftsmen Business Interiors, Inc. (Christ the Redeemer Church).

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

- * **20160730** **Preliminary Plat - Sun Lucas (770, 780, 786, 790 Powers Ferry Road)**

Motion to approve the preliminary plat for a new subdivision, annexed and rezoned (Z2015-32) in October 2015.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

- * **20160743** **Detailed Plan for Heritage Ridge Single Family Homes - 1725 White Circle**

Motion to approve the detailed plan for 1725 White Circle. The 9.65 acre proposed Single Family Homes community was rezoned to PRD-SF with stipulations in September 2014.

Motion to approve the detailed plan for 1725 White Circle, with the following stipulations are incorporated as conditions of approval:

- 1. Per the plan submitted dated August 10, 2016.*
- 2. The applicant shall miter the corner of Heritage Ridge Drive and White Circle.*
- 3. The applicant shall provide a three year bond for the storm sewer system, the bond shall cover repairs to the storm sewer system and the streets and any other damage as a result of the storm sewer system failure.*
- 4. The applicant shall have an engineer inspect the storm using a video camera now and again three months prior to the expiration of the bond. Both reports shall be provided to the Public Works Director.*
- 5. The streets and infrastructure within the right-of-way within the development shall be public not private.*

This matter was Approved as Amended on the Consent Agenda.

Vote: 7 – 0 – 0

Approved as Amended

* **20160640 Church Cherokee Streets Historic District**

Approval of an Ordinance designating portions of Church Street, Cherokee Street, Freyer Drive, Seminole Drive, and Frances Avenue as a local Historic District.

Council member Goldstein disclosed that he is the owner of four (4) parcels in the proposed Church-Cherokee Street Historic District.

Council member Fleming disclosed that he is the owner of property at 564 Cherokee Street in the proposed Church-Cherokee Street Historic District.

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 5 – 0 – 2 Approved
Abstaining: Stuart Fleming and Philip M. Goldstein

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson

5. Personnel/Insurance: Johnny Walker, Chairperson

* **20160736 Property & Casualty/Miscellaneous Coverage**

Motion approving the City of Marietta/BLW property & casualty and other miscellaneous coverage, premiums, and companies utilized for the policy period of August 17, 2016, to August 17, 2017.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20160747 Limited Appeal Rights of Surviving Spouse as to Beneficiary Benefits:

Motion to approve recommendation of amendment of City of Marietta Consolidated Retirement Plan for consideration of Pension Board subject to compliance with Federal and State laws and all promulgated rules and regulations of all regulating bodies thereto:

Notwithstanding any other provision to the contrary in the City of Marietta Consolidated Retirement Plan, a non-employee surviving spouse who was married for at least 1 year to and was married at the time of death to a City of Marietta employee who was vested in the Consolidated Retirement Plan and had yet to retire and file a beneficiary designation form (“qualified employee”) shall have the option and right to apply for pension benefits of qualified employee that could have been extended to said surviving spouse if beneficiary form had been

Completed. The pension benefit shall be determined at the joint beneficiary rate of 50% as adjusted for death benefits paid in lieu of "no pension benefits" including any refund of participant contributions and payment of life insurance proceeds of qualified employee either paid previously to surviving spouse or that could have been paid to surviving spouse.

Appeal/application period shall be open for 2 years following the death of the qualified employee addressed to the Pension Board subject to approval by Council for period following effective date of this amended ordinance and the limited period of five years following the death of the qualified employee prior to the adoption of this amendment (from October 2011 forward). Determinations will be on a case-by-case basis by Pension Board. Pension annuity shall commence upon approval of appeal with no recapture of payments from date of death of qualified employee with the Pension Board given flexibility to allow Appealing Beneficiary to retain employee death benefits paid previously in lieu of pension as calculated and then commence adjusted pension annuity benefits, as adjusted, commencing at a later date reflecting the amount of retained benefit or any combination thereto. Upon determination and detail of distribution of benefit by Pension Board, said decision is subject to approval of City Council. These amended spousal protection distributions shall be funded from the pension fund.

This amended provision is limited to the above stated surviving spouse of qualified deceased employee for stated periods with no other appeal rights created, implied, or stated. This item is requested by Mayor Tumlin.

Discussion was held regarding the proposed recommendation to the Pension Board to study benefits for surviving spouses.

Concern was expressed and comments were made by Council member Goldstein.

A motion was made by Council member Morris, seconded by Council member Walker, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 0 - 1 Approved
Voting Against: Philip M. Goldstein

6. Public Safety Committee: Ruben Sands, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

*** 20160660 2011 SPLOST Project Funding Reallocation**

Motion authorizing Public Works to reallocate project funding to balance projects and allocate additional proceeds received.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20160755 Intergovernmental Agreement for GDOT Regional Traffic Operations Program**

Motion authorizing revision to the RTOP agreement with GDOT to include all state routes.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20160758 Forest Avenue No Parking Zone**

Motion authorizing a No Parking Zone along the North side of Forest Ave. between North Forest Ave. and Cherokee St.

This matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 Approved
Abstaining: Grif Chalfant

- * **20160759 Chestnut Hill Road Driver Speed Feedback Signs**

Motion authorizing two driver speed feedback signs on Chestnut Hill Road near Tumlin Park.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

- * **20160812 Speed Limit on Sequoia Drive, Iroquois, & Etowah Dr. N. of Chicopee Drive**

Motion to establish the speed limit at 25 mph on Sequoia Drive, Iroquois, and Etowah Drive North of Chicopee Drive requested by Councilman Morris.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

OTHER BUSINESS:

20160722**Appeal Hearing - Officer Written Order of Case # 14-0000971 560 Powder Springs Street, Wynhaven Property**

Appeal hearing required for boarded up buildings located at 560 Powder Springs Street (Wynhaven).

Motion to (affirm) (reverse) the order of the Director of Development Services for the City of Marietta dated June 27, 2016.

Mayor Tumlin opened the hearing and called forward those wishing to speak.

City Attorney Doug Haynie mentioned that this matter was continued from last month and called on attorney Robert Donovan, representing the City in this matter to begin the proceeding. Mr. Donovan again requested that the Council affirm the Written Order issued by Mr. Binzer based on the finding of facts in the order the transcript of the adjudicatory hearing and exhibits submitted.

Mr. Haynie called forward the owner or anyone present representing the property located at 560 Powder Springs Street. For the record, no one was present at this time to speak regarding this property.

Seeing no one else wishing to speak, the public hearing was closed.

Motion to affirm the Written Order of the Director of Development Services for the City of Marietta dated June 27, 2016.

The motion was made by Council member Fleming, seconded by Council member Morris, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0**Approved***** 20160800****Charter Amendment for Salary of Mayor, Mayor Pro Tem and Members of the City Council effective January, 2018.**

Motion to approve the second reading of Amendment to the Charter for City of Marietta Section 2.12 and Section 2.7 related to Compensation for the Mayor of the City of Marietta, the Mayor Pro Tem and the members of the City Council, effective January, 2018.

Second Reading

Public hearing held during the consent agenda.

This matter was Approved on the Consent Agenda.

Vote: 4 – 2 – 1**Approved**

Voting Against: Grif Chalfant and Johnny Walker

Abstaining: Ruben Sands

* **20160808 Marietta Municipal Court**

Motion to authorize staff to examine operational and budgetary issues related to changing court positions.

This item is requested by Mayor Tumlin

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20160840 Property Acquisition 426/428 Frasier Street**

Motion authorizing acquisition of 426/428 Frasier Street from Daniel C. Vite per the executed contract in exchange for \$200,000 from the 2009 Parks Bond Fund.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20160795 BLW Actions of August 8, 2016

Review and approval of the August 8, 2016 actions and minutes of Marietta Board of Lights and Water.

This matter was Approved on the Consent Agenda.

Vote: 6 – 1 – 0 Approved
Voting Against: Philip M. Goldstein

* **20160850 Georgia's Tax Refund Intercept Program Participation**

Motion to approve contract 2016-1 Amendment between the Judicial Council's Administrative Office of the Courts of Georgia and the City of Marietta Municipal Court related to the Georgia's Tax Refund Intercept Program Participation.

This matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 8:16 p.m.

Date Approved: September 14, 2016

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk